IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11/07/2003

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

CRIMINAL ORIGINAL PETITION NO.15588 OF 2003
AND
CRL.M.P.Nos.4848 & 4849 OF 2003.

Sankar ... Petitioner

-Vs-

The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai District.
(Cr.No.393/2002) ... Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure for the relief as stated therein.

For petitioner : Mr.Subash

For respondent : Mr.A.N.Thambidurai,
Govt.Advocate (crl.side)

:O R D E R

The above criminal original petition has been filed under Section 4 82 of the Code of Criminal Procedure praying to call for the records in connection with PRC.No.28/2003 on the file of the Court of Judicial Magistrate No.I, Sivagangai and quash the same against the petitioner.

2. Petitioner is arrayed as A.7 in a case registered by the respondent for the offences punishable under Sections 148,336,506(II) and Section 3 of Tamil Nadu Public Properties (Prevention of Damage and Loss) Act. The overt act attributed to the petitioner is that he assaulted the defacto-complainant Thirugnanam with stone on his body and also broken the stone worth about Rs.2,500/= laid by the complainant with other accused.

3. During arguments, the learned counsel for the petitioner submitted that the property alleged to have been destroyed by the accused is not a `public property' and hence the provisions of the T.N.Public Properties (Prevention of Damage and Loss) Act cannot be said to be applicable to the case of the petitioner. However, it should be mentioned that the term `public' has been omitted in the said Act w.e.f. 4.8.1994 by the Amended Act 46/1994 and therefore the argument put forth on the part of the petitioner

cannot hold water.

4. The other arguments put forth on the part of the petitioner regarding the other offences i.e. Sections 148,336 and 506(II) IPC to the effect that none of the ingredients of these Sections are attracted in the case of the petitioner, are the questions of fact , which this Court cannot appreciate and they have to be answered by conducting a thorough trial into the matter. Therefore, directing the petitioner to raise all such points before the trial Court, the above criminal original petition is liable only to be dismissed.
In result,
(i)the above Criminal Original Petition is dismissed.
(ii)However, since it is requested on the part of the learned counsel for the petitioner requesting a direction to the trial Court to complete the trial in a time bound manner, and since it comes tobe known that the matter is pending committal before the Court of Judicial Magistrate No.I, Sivagangai, the Judicial Magistrate No.I, Sivagangai is hereby directed to commit the case to the Court of Sessions , after following the procedures laid down under law, within one month and thereupon the Court of Sessions, to which the matter would be allocated for trial, shall complete the trial and deliver the judgment on merits and in accordance with law within six months thereafter.

Consequently, Crl.M.P.Nos.4848 and 4849 of 2003 are also dismissed.

Index: Yes
Internet: Yes
Rao
To
1.The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai District.

2.The Judicial Magistrate No.I,
Sivagangai.

3.The Public Prosecutor,
High Court, Madras.